

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

**ALAN P. WOODRUFF, and GREEN PARTY
OF NEW MEXICO ,**

Plaintiffs,

v.

CIV 10-0123 KBM/ACT

**MARY HERRERA, in her official capacity
as New Mexico Secretary of State,**

Defendants.

**COURT’S NOTICE OF RELATED CASE AND
REQUEST FOR CONSOLIDATION**

THIS MATTER is before the Court *sua sponte*. In the above action, Plaintiffs Alan P. Woodruff and Green Party of New Mexico have filed an “Emergency Motion for *Ex Parte* Entry of Preliminary Injunction” asking that the Court compel the New Mexico Secretary of State to recognize the Green Party of New Mexico as a “qualified” major party for the 2010 election and including its candidates in the primary election. *Doc. 5*. In their motion, Plaintiffs acknowledge that they have sought the same relief in *Woodruff et al. v. Herrera*, CIV 09-0449 JCH/KBM. *Id.* at 5. As justification for *ex parte* consideration, Plaintiffs argue that they

have sought, for almost a year, to establish their rights through appropriate actions in this court. However, these efforts have been frustrated by an initial dismissal of the relevant claims, *without prejudice*, but a denial of Plaintiffs motion for leave to amend to cure the technical pleading deficiencies on which the dismissal, *without prejudice*, was based. Accordingly, Plaintiffs have been forced to pursue these claims in this separate action.

Id. (emphasis in original). That action remains pending before the Honorable Judith C. Herrera.

In fact, less than a week ago, Plaintiffs filed a motion seeking reconsideration of the memorandum opinion and order in which she denied their request to file an amended complaint.

See Docs. 124 & 125.

Rule 42 of the Federal Rules of Civil Procedure provides that “[i]f actions before the court involve a common question of law or fact, the court may . . . consolidate the actions.” The ultimate decision as to consolidation is reserved to the presiding judge in the first-filed case.

Wherefore,

IT IS HEREBY REQUESTED that Judge Herrera consider consolidating the actions.


UNITED STATES MAGISTRATE JUDGE